IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CONTEMPT PETITION NO. 489 OF 2001

Smt. Kirran P. Vaswani ...Petitioner

Versus

Pritam V. Vaswani ...Respondent

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Smt. Kirran P. Vaswani, the Petitioner in person.

Mr. Pritam V. Vaswani, the Respondent in person.

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CORAM: B. H. MARLAPALLE, J.
DATED: 7TH APRIL, 2005

P. C.:-

1. Heard Smt. Kirran Vaswani, the petitioner party in person. The petitioner who is an advocate by profession, alleges that the respondent husband is guilty of wilfully acting in breach of the order passed by the Family Court at Mumbai on 20.12.1996 as well as the order passed by this Court on 6.12.2000 in Contempt Petition No. 72 of 2000 and therefore, he ought to be punished for contempt as defined U/sec. 2(b) of the Contempt of Courts Act, 1971.

2. The respondent husband has appeared and filed affidavit in reply and thereafter the petitioner has filed counter as well as the rejoinder. The learned Principal Judge of the Family Court by his order dated 20.12.96 had granted permission to the petitioner to meet the children as suggested by the

Marriage Counsellor, once in 15 days and the husband was ordered to allow the petitioner to meet the children at children's house-Yari Road on second and fourth Sunday every month. This Court in its order dated 6.12.2000 noted the grievance of the petitioner that the respondent-husband was not obeying the order passed by the learned Principal Judge of the Family Court on 20.12.96 and further observed that the subject matter of the contempt proceedings was in two parts viz. (1) Grant of the access to the petitioner in respect of two children and (2) payment of arrears of maintenance.

3. The couple has two children one son and one daughter. The son's name is Amar and daughter's name is Avanti. Amar was 20 years of age as on 6.12.2000 and Avanti was of 15 years of age on that day. This Court therefore, clarified that the meeting between the son and the mother, cannot be the subject matter of an order of access. So far as the daughter is concerned, this Court recorded the husband's statement to the effect that he would duly ensure that the daughter is escorted by her brother Amar to the residence of the petitioner wife on Saturday, 9th December 2000 between 3.00 p.m. to 7.00 p.m. and subsequently on every alternate Saturday at the residence of the petitioner at mutually convenient time to both, in order to fulfil the order granting

access to the mother and the respondent was directed accordingly.

4. In the petition memo it has been averred that on 13.12.2000 daughter Avanti talked to the petitioner on phone and informed her that on account of the exams she was writing, it would not be possible for her to visit the mother on that day and she would meet her on 23.12.2000. The petitioner contends that the respondent husband ought to have informed this Court that the daughter was writing the examination and this failure on his part is contemptuous.

5. On 23.12.2000, Avanti was escorted by her brother Amar and they reached the petitioner’s house at about 4.00 p.m., the daughter was with the mother till 5.30 p.m. though the specified time in the order of this Court was 4.00 p.m. to 7.00 p.m. During this visit it is alleged that the respondent husband was continuously calling on the mobile phone of the son and thus disturbing the meeting between the mother and the daughter. The petition memo further states that on 6.1.2001 and on 17.1.2001 the daughter met the mother and she was in her company only for two hours instead of three hours and the meeting was again disturbed by the respondent husband by telephone calls. These alleged acts of the respondent husband are contemptuous as per the

petitioner wife and therefore, she prays that the husband must be punished for the offence of contempt of Court within the meaning of Section 2(b) of the Contempt of Courts Act, 1971. On the second issue of monthly payments, there is no case for contempt made out in this petition.

6. There is no dispute that the daughter is of grown up age and the allegations levelled against the respondent husband do not in any way indicate that the order passed by this Court or for that matter by the Family Court has been violated leave alone deliberate violation. The daughter seems to be capable of taking her own decisions and she has her own views which she appear to have made known to the mother during her visit and the mother has contended these outbursts stated in the petition memo are attributed to the husband. The views of the grown up children cannot be attributed to the father and the allegations of contempt against him are thus, far fetched and in fact frivolous.

7. There is no case made out to take cognizance for contempt and therefore, this contempt petition deserves to be rejected. Hence, the contempt petition stands rejected summarily.

8. Certified copy is expedited.